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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,201	09/29/2003	Richard F. Gladney	SMCY-P01-081	9948

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ROPES & GRAY LLP
EDWARD J. KELLY
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

EXAMINER
SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
3673	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/675,201	Applicant(s) GLADNEY, RICHARD F.	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,9,20,21 and 52-64 is/are pending in the application.
- 4a) Of the above claim(s) 61-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,9,20,21 and 52-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Newly submitted claims 61-64 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 61-64 are directed to a patentably distinct species of the invention in that claims 61-64 are directed to a pivoting member attached to a slip cover which slip cover covers the mattress whereas claim 1 as originally presented and as now claimed is directed to a pivoting member attached to the mattress.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 61-64 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The use of the trademark Velcro has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Applicant must amend the specification to present any use of trademarks in an appropriate manner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 9, 54, 55, and 57-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Maddux '841. Maddux '841 discloses, Figs. 1, 3, and 4-6, a mattress having a substantially rectangular sleeping surface; and a pivoting member 15 attached to a major surface of said mattress and configured as a tubular sleeve, with said pivoting member adapted to receive an attachment bar, (e.g., 16), for attachment to an adjustable bed frame. The tubular sleeve 15 comprises a fabric grommet, (**claim 9**). The mattress has a uniform thickness, (**claim 54**) and comprises coil springs 1, (**claim 55**). The pivoting member comprises a plurality of tubular sleeves 15 arranged between two side surfaces of the mattress, (**claim 57**). The mattress is a two-sided mattress having two major substantially rectangular surfaces, each adapted to form a sleeping surface; and pivoting members 15 configured as a tubular sleeve and attached to each of the major surfaces of said mattress, (see Fig. 3 for example), said pivoting members adapted to receive an attachment bar for attachment to an adjustable bed frame, (**claim**

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58). The mattress is thus, reversible, (**claim 59**). At least two pivoting members 15 are spaced in a longitudinal direction of the mattress, (**claim 60**).

Claims 1, 6, 9, 20, 21, 52-54, 57, and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Husler '528. Husler '528 discloses, Figs. 2 and 3, a mattress having a substantially rectangular sleeping surface; and a pivoting member 51 attached to a major surface of said mattress and configured as a tubular sleeve, with said pivoting member adapted to receive an attachment bar, (with 5 removed allows for placement of any type rod or beam or 5 is an attachment bar), for attachment to an adjustable bed frame. The mattress is a one-sided mattress having a substantially rigid lower surface, (**claim 20**). The pivoting member is releasably attached to the mattress, (**claim 52**) as by a hook-and-loop fastener, col. 3, lines 45 and 55-58, (**claim 53**). The mattress has a uniform thickness, (**claim 54**). The pivoting member comprises a plurality of tubular sleeves arranged between two side surfaces of the mattress, (**claim 57**). At least two pivoting members 51 are spaced in a longitudinal direction of the mattress, (**claim 60**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maddux '841 in view of Warner '676 or Sklar '427.

Each of Warner '676 or Sklar '427 teach that it is well known to form mattresses of pocket springs as is shown by Figs. 2 and 3 of Warner '676 and Figs. 1 and 4 of Sklar '427. Therefore, to have formed the Maddux '841 mattress with pocket springs, thus providing a well-known alternative spring support, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Warner '676 and Sklar '427.

Claims 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maddux '841 in view of Warner '676 or Sklar '427.

Each of Warner '676 or Sklar '427 teach that it is well known to form mattresses of pocket springs as is shown by Figs. 2 and 3 of Warner '676 and Figs. 1 and 4 of Sklar '427. Therefore, to have formed the Husler '528 mattress with coil springs or pocket springs, thus providing a well known alternative spring support for a mattress, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Warner '676 and Sklar '427.

Response to Arguments

Applicant's arguments with respect to claims 1, 6, 9, 20, 21, and 52-60 have been considered but are moot in view of the new ground(s) of rejection.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

M. Safavi
September 25, 2006



MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 3673